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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/113,770 07/10/98 TIEDEMANN

E QCPA577

023696  
Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego CA 92121-1714

WM02/0815

EXAMINER

LIU, S

ART UNIT

PAPER NUMBER

2634

DATE MAILED:

08/15/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/113,770

Applicant(s)

TIEDEMANN, EDWARD G.

Examiner

Shuwang Liu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,4,6,7,10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5,8,9 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. The restrictions are withdrawn in response to the argument filed on June 11, 2001.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (Patent Number 5,598,416).

(1) regarding claims 5, 9, and 12:

As shown in figures 3 and 8, Yamada et al. discloses an apparatus for transmitting spread spectrum data, comprising:

A modulation means (37 in figure 3 and 88 in figure 8) for receiving data (from 42 of figure 3 and 94 of figure 8) for modulating the received data in accordance with a code channel selection signal (outputted from 40) (column 5, lines 16-19 and column 3, lines 16-20); and

An upconversion means (38 in figure 3 and 90 in figure 8) for receiving the modulated data and for upconverting the modulated data for transmission at a

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frequency determined in accordance with a selection signal (column 3, lines 20-23 and column 5, lines 21-24), wherein the code channel selection signal is determined in accordance with a subset of bit of the received data (column 3, lines 16-17 and column 5, lines 14-16).

(2) regarding claims 2, 8, and 13:

Since claims 2, 8, and 13 are one of special configuration of claims 5, 9, and 12, the rejection related to claims 5, 9, and 12 already includes the rejection for claims 2, 8, and 13.

(3) regarding claim 14:

Since claim 14 is one of special configuration of claims 5, 9, and 12, the rejection related to claims 5, 9, and 12 already includes the rejection for claim 4.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. in view of Langberg et al. (US 5,852,630).

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Yamada et al. discloses all of the subject matter as described above except for the method written by a software program embodied in a computer-readable medium.

However, Langberg et al. teaches that the method and apparatus for a transceiver warm start activation procedure with precoding can be implemented in software stored in a computer-readable medium. The computer-readable medium is an electronic, magnetic, optical, or other physical device or means that can be contain or store a computer program for use by or in connection with a computer-related system or method (column 3, lines 51-65). One skilled in the art would have clearly recognized that the method of Yamada et al. would have been implemented in software. The implemented software would perform same function of the hardware for less expense, adaptability, and flexibility. Therefore, it would have been obvious to made the modulator of Yamada et al in the software as taught by Langberg et al. in order to reduce cost and improve the adaptability and flexibility of the communication system.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shuwang Liu whose telephone number is (703) 308-9556. The examiner can normally be reached on M-F 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703) 305-4714. The fax number for this Group is (703) 872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



Shuwang Liu  
August 3, 2001



STEPHEN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600